

## REMARKS

An Office Action was mailed November 26, 2008 and declared final. This Response is timely. Any fee due with this paper, including any necessary extension fees, may be charged on Deposit Account 50-1290.

### Summary

Claims 1-23 were examined. Claims 1-16, 18-21, and 23 were allowed. The Examiner is thanked for the allowance.

By the foregoing, the abstract and claim 17 are amended. No new matter has been added.

### Objections to the Drawings

The drawings are objected to with regard to subject matter claimed in claim 17, specifically

*"each of said earpieces has a front surface with an internal convex profile and rear surface with a concave internal profile, counter-shaped to said front surface so that said earpieces, if longitudinally overlapped, reciprocally match to create a housing for the frontal piece."*

The specification teaches at 7:12-15(corresponding to ¶0042) that

*"[e]ach of these first and second earpiece has a front surface 34 with an internal convex profile and rear surface 35 with a concave internal profile, counter-shaped to front surface 34 so that these earpieces, if longitudinally overlapped, reciprocally match to create a housing."*

As seen, for example, with respect to Fig. 9, the convex and concave profiles that are counter-shaped are present as marked by reference 34 and 35. Similarly, please see Figs. 5 and 8.

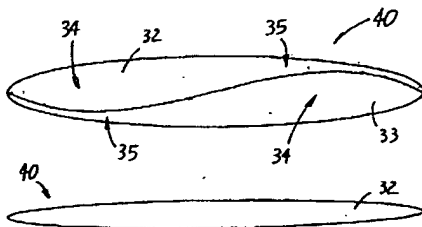


Fig. 9

Thus, Applicant respectfully believes the drawings show the claimed subject matter. Accordingly, the Examiner is respectfully requested to withdraw the objection.

#### **Objections to the Abstract**

The Abstract is objected. The same is now corrected.

#### **Rejection under 35 U.S.C. §112**

Claims 17 and 22 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claim 17 is indefinite for reciting the conditionally “if.” Claim 17 now recites operatively that “when” the earpieces longitudinally overlap they reciprocally match to create a housing for the frontal piece.

Claim 22 is deemed to be indefinite because the earpieces are thinner than the nosepiece and would interfere in the closing. Indeed, typically, one would find that nosepiece by virtue that it must fit over a bulky part of human anatomy may protrude. The present invention includes a nosepiece that is elastic. As taught at 10:6-11, (corresponding to ¶0055),

*Furthermore, since the width of these earpieces are, at least in their central area, not as thick as the elastic nose piece 41, once moved to the folded position they slightly deform the latter to guarantee a secure closing of shell 40.*

Thus, when folded, the interference between the earpiece and the nosepiece is negated because the nosepiece is made of elastic material, as claimed.

Applicant respectfully submits that in view of the teachings in the specification, claim 22 is definite. Accordingly, the Examiner is respectfully requested to withdraw the rejection.

All dependent claims are allowable for at least the same reasons as the independent claim from which they depend.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

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Respectfully submitted,

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